

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Telecommunications Relay Services and)	
Speech-to-Speech Services for)	CC Docket No. 98-67
Individuals with Hearing and Speech)	
Disabilities)	

Reply of Hamilton Relay, Inc., to Comments on Second Further Notice of Proposed Rulemaking

Hamilton Relay, Inc. (Hamilton), by its attorneys, submits these reply comments in response to comments filed on the Second Further Notice of Proposed Rulemaking in the Commission's order on Internet protocol relay service (IP Relay).¹ Hamilton currently provides traditional relay services under contract for six states, including Nebraska, Idaho, Louisiana, Kentucky, Wisconsin, and Rhode Island and intends to provide IP Relay service to all 50 states.

Introduction and Summary

Hamilton supports the basic conclusion expressed in comments filed by Telecommunications for the Deaf, Inc. (TDI), Sprint Corporation (Sprint), AT&T Corp. (AT&T), WorldCom, Inc. (Worldcom) and the Missouri Public Service Commission. These comments are in fundamental agreement that the Commission can and should continue to provide for cost recovery entirely from the interstate TRS Fund. They explain that there is no way to determine the originating location of Internet calls automatically, no suitable and effective means of distinguishing interstate and intrastate costs for these calls has been identified,

and the proposed means such as customer registration or a fixed allocation would overly burden IP Relay users, providers and state regulators and hamper development of the innovative service.

The Commission Has Discretion to Heed the Public Policy Rationale for Retaining Interstate Cost Recovery for IP Relay Service

Several of the comments explain that the Commission has discretion, as it held in the Video Relay Services proceeding,² not to apply an overly strict jurisdictional separations and dual cost recovery requirement to certain innovations in relay service. Verizon (pp. 2-3) points out that §225 provides only "generally" for jurisdictional cost recovery and that interstate recovery is particularly appropriate for "nascent IP Relay services." TDI (pp. 3-5) agrees that the Commission has authority to fund IP Relay from the interstate jurisdiction and adds that interstate funding is consistent with the statute's directive in §225(d)(2) not to "discourage or impair the development of improved technology in the delivery of relay services." Other comments emphasize the current impossibility of identifying which calls to attribute to which jurisdiction. AT&T urges (p. 2, fn. omitted) that the Commission retain the all-interstate funding "until such time as the industry of SHOULD THIS WORD BY OR the Commission has developed a mechanism to accurately and verifiably determine the geographic location of those calls' originators." However, AT&T, too, agrees (pp. 3,4) that it is too early now to burden IP Relay providers with proposed jurisdictional identification processes that "may create an artificial deterrent to customers' use of IP Relay service."³

¹ *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67 (rel. April 22, 2002) (2dFNPRM).

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 15 FCC Rcd 5140, 5154 (2000).

³ AT&T suggests monitoring to determine if interstate funding becomes a problem in the future, and TDI recommends revisiting the issue every three years. Hamilton believes that providers and the Commission have every incentive to be watchful for any signs that sole reliance on interstate funding is creating problems. Consequently, formal monitoring is unnecessary, and scheduling further future proceedings now would substitute a rigid approach where flexible and informal oversight would be more practical and effective.

Dual State and Intrastate Funding Measures Would Lead to Excessive Costs and Burdens and Create Unjustifiable Obstacles to Providing and Using IP Relay Service

To demonstrate the adverse effects of state funding of some intrastate portion of costs, Sprint (pp. 2-3), TDI (pp. 5-6) and Worldcom (pp.3-7) describe the significant costs, burdens and inefficiencies that would result from trying to divide interstate and state funding, even if it could be done. Sprint warns (p. 2) that states may refuse to fund IP Relay services. Worldcom argues (p.3) that when states decline to fund relay services, it provides yet another source of Commission authority to do so. Worldcom (p. 2) observes that each relay provider would have to have contract arrangements with every state in which it chose to provide IP Relay in a state funding environment, which would seriously burden the states and discourage providers from serving in multiple states. TDI even suggests (p. 5) that a slavish reading of the law could suggest that IP relay providers would have to undergo competitive bidding in all 50 states to provide the service nationwide. Worldcom's more plausible concern (p. 4) is that states would not be willing to go beyond their current single provider selected by competitive bidding pursuant to the law. In any event, comments show (e.g., TDI, pp. 8-9) realistic concerns that the benefits of multi-vendoring could be stifled by adding the inevitable multi-state legal requirements, costs and administrative burdens. The Commission should maintain interstate TRS Funding so that customers will not lose the benefit of choices among providers if states become unwilling or are precluded from dealing with additional IP Relay providers.

In addition to showing that caller location information is not available for Internet IP Relay calls now, the record clearly establishes that the Commission's suggestions for a fixed allocation factor or registering customers should not be adopted. Several comments spell out the reasons that a fixed allocator would be too inaccurate for assigning jurisdiction cost recovery

responsibilities. Sprint (p. 2) cautions that an inaccurate allocator could lead to controversy about whether subsidies are flowing between states. AT&T points out (p. 3) that an accurate allocation factor cannot be developed without knowing the originating location of calls. Worldcom interjects (p. 7) that distortions from free IP Relay long distance calling would skew the relationship from the ratio for traditional relay services, overburdening the intrastate jurisdiction.

Commenters also elaborate on the fatal drawbacks of using a registration system to identify interstate and intrastate calls, including the incentives to provide false location information (Worldcom, p. 6) and the intrusion on the privacy interests of IP Relay users and resulting disincentives to use the service (e.g., TDI, p.11, Sprint, p. 2). Verizon points out (n. 3) that user registration would not be an effective means to identify a call as interstate or intrastate for the purpose of dividing interstate and intrastate IP Relay costs for funding purposes, since an IP relay user could be calling from a location other than his registered home state.

Conclusion

The record plainly establishes both that the Commission has adequate authority and that only continuing to provide full cost recovery for IP Relay service via the interstate TRS Fund comports with the strong public policy favoring expansion of the functionally equivalent services

available to persons with hearing and speech disabilities. The Commission should follow that course to enable providers and users to get on with making IP Relay a successful and beneficial addition to the arsenal of functionally equivalent relay services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Vicki Redman, employee of Holland & Knight LLP, 2099 Pennsylvania Avenue, Suite 100, Washington, D.C. 20006, do hereby certify that a copy of the foregoing Reply of Hamilton Relay, Inc., to Comments on Second Further Notice of Proposed Rulemaking was served on this 26th day of July, 2002, via hand delivery or by first class mail, to the following parties:

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